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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,186	10/14/2003	Reynaldo J. Quintana	212/465	3771

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EXAMINER	
DEMILLE, DANTON D	

ART UNIT	PAPER NUMBER
3771	

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/686,186	QUINTANA ET AL.	
	Examiner	Art Unit	
	Danton DeMille	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-6,9-12,14-17,20,22 and 23 is/are rejected.

7)☒ Claim(s) 7,8,13,18,19,21 and 24 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/686549. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending claims include the spline and slot arrangement in claim 33 and it would have been obvious to leave out the details of the channel beam.

Claims 9-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/686549 in view of Morgan et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to include

instructional labels to the device as taught by Morgan to assist the user in the operation of the device.

Claims 14, 15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/686549 in view of Bystrom et al. (US 6,090,056). Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to include a cover plate 27 as taught by Bystrom figure 7 to provide a portable system for performing chest compressions on a patient.

Claims 16 and 17, 22, 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/686549 and Bystrom as applied to claim 15 above and further in view of Dragan. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art to modify the pending claims to use a spline and slot arrangement as taught by Dragan as an obvious equivalent way of securing the belt to the drive spool.

Claim 20 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of copending Application No. 10/686549 and Bystrom as applied to claim 15 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686185. It would have been obvious to leave out the details of the pull straps for example.

Claims 1-3, 14, 16, 17, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686185 in view of Dragan. It would have been obvious to one of ordinary skill in the art to modify the pending claims to use a spline and slot arrangement as taught by Dragan as an obvious equivalent way of securing the belt to the drive spool. The method of using the device recited in the pending claims also would have been obvious.

Claims 4, 5, 6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686185 in view of Dragan as applied to claim 1 above and further in view of Sherman (US 6,066,106). It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include a guide plate and slot as taught by Sherman to cover the opening of the drive spool and belt.

Claims 9-10, 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686185 in view of Dragan as applied to claim 1 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

Claims 11, 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686185 in view of Dragan and Sherman as applied to claim 4 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188. It would have been obvious to leave out the details of the pull straps for example.

Claims 1-3, 14, 16, 17, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188 in view of Dragan. It would have been obvious to one of ordinary skill in the art to modify the pending claims to use a spline and slot arrangement as taught by Dragan as an obvious equivalent way of securing the belt to the drive spool. The method of using the device recited in the pending claims also would have been obvious.

Claims 4, 5, 6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188 in view of Dragan as applied to claim 1 above and further in view of Sherman (US 6,066,106). It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include a guide plate and slot as taught by Sherman to cover the opening of the drive spool and belt.

Claims 9-10, 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188 in view of Dragan as applied to claim 1 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

Claims 11, 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188 in view of Dragan and Sherman as applied to claim 4 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device. Claims 15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188. It would have been obvious to modify the pending claims to leave out the details of the means for circulating air.

Claim 15 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184. It would have been obvious to leave out the details of the pull straps for example.

Claims 1-3, 14, 16, 17, 22 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184 in view of Dragan. It would have been obvious to one of ordinary skill in the art to modify the pending claims to use a spline and slot arrangement as

taught by Dragan as an obvious equivalent way of securing the belt to the drive spool. The method of using the device recited in the pending claims also would have been obvious.

Claims 4, 5, 6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184 in view of Dragan as applied to claim 1 above and further in view of Sherman (US 6,066,106). It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include a guide plate and slot as taught by Sherman to cover the opening of the drive spool and belt.

Claims 9-10, 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184 in view of Dragan as applied to claim 1 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

Claims 11, 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184 in view of Dragan and Sherman as applied to claim 4 above and further in view of Morgan et al. It would have been obvious to one of ordinary skill in the art to further modify the pending claims to include instructions as taught by Morgan to assist the user in the operation of the device.

These are provisional obviousness-type double patenting rejections because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US 6,066,106) in view of Dragan.

Sherman teaches the belt drive platform in figure 1, with a drive spool 8, means 43 for rotating the drive spool, a compression belt cartridge 3 and a belt 4. Sherman teaches the belt 4 is threaded through slot 9 in the drive spool to attach the belt to the drive spool however, other equivalent alternative ways of attaching the belt to the drive spool would have been obvious.

Dragan teaches an alternative way of attaching a belt to a spool such that rotation of the drive spool tightens the belt. It would have been obvious to one of ordinary skill in the art to modify Sherman to use a spline and slot arrangement as taught by Dragan as an obvious equivalent way of securing the belt to the drive spool.

Regarding claims 4 and 5, Sherman teaches a guide plate 57 and slot 58.

Regarding claim 14, Sherman teaches a cover plate 11L operably attached to the belt and the platform.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Morgan et al.

Providing labels on the device for instructing the user in the use of the device is well known to the artisan of ordinary skill. Morgan teaches providing labels with instructions on the

device. It would have been obvious to one of ordinary skill in the art to further modify Sherman to include instructions as taught by Morgan to assist the user in the operation of the device.

Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bystrom et al. (US 6,090,056).

Bystrom teaches everything including a cover plate 27 operably attached to the belt and removably attached to the housing.

Claims 16, 17, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bystrom et al. in view of Dragan.

It would have been obvious to one of ordinary skill in the art to modify Bystrom to use a spline and slot arrangement as taught by Dragan as an obvious equivalent way of securing the belt to the drive spool.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bystrom et al. (US 6,090,056) in view of Morgan et al.

It would have been obvious to one of ordinary skill in the art to modify Bystrom to include instructions as taught by Morgan to assist the user in the operation of the device.

Allowable Subject Matter

Claim 7, 8, 13, 18, 19, 21, 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and pending the resolution of any double patenting rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1 October 2006

Danton DeMille
Primary Examiner
Art Unit 3764